

South Carolina General Assembly
117th Session, 2007-2008

A244, R292, H4750

STATUS INFORMATION

General Bill

Sponsors: Reps. Cobb-Hunter and McLeod

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Introduced in the House on February 26, 2008

Introduced in the Senate on April 30, 2008

Last Amended on April 29, 2008

Passed by the General Assembly on May 16, 2008

Governor's Action: May 27, 2008, Signed

Summary: Continuing care facilities

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
2/26/2008	House	Introduced and read first time HJ-12
2/26/2008	House	Referred to Committee on Judiciary HJ-13
4/23/2008	House	Recalled from Committee on Judiciary HJ-98
4/24/2008		Scrivener's error corrected
4/29/2008	House	Member(s) request name added as sponsor: McLeod
4/29/2008	House	Amended HJ-20
4/29/2008	House	Read second time HJ-21
4/30/2008	House	Read third time and sent to Senate HJ-16
4/30/2008	Senate	Introduced and read first time SJ-9
4/30/2008	Senate	Referred to Committee on Banking and Insurance SJ-9
5/14/2008	Senate	Committee report: Favorable Banking and Insurance SJ-12
5/15/2008	Senate	Read second time SJ-12
5/15/2008	Senate	Unanimous consent for third reading on next legislative day SJ-12
5/16/2008	Senate	Read third time and enrolled
5/22/2008		Ratified R 292
5/27/2008		Signed By Governor
6/3/2008		Copies available
6/3/2008		Effective date 05/27/08
6/13/2008		Act No. 244

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VERSIONS OF THIS BILL

[2/26/2008](#)

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(A244, R292, H4750)

AN ACT TO AMEND SECTION 37-11-100, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DISCIPLINARY PROCEDURES FOR THOSE WHO MANAGE CONTINUING CARE FACILITIES, SO AS TO DELETE OBSOLETE PROVISIONS, PROVIDE GROUNDS FOR WHICH DISCIPLINARY ACTION MAY BE TAKEN, PROVIDE TYPES OF DISCIPLINARY ACTION THAT MAY BE TAKEN, REQUIRE THAT DISCIPLINARY ACTION OCCUR SUBJECT TO THE ADMINISTRATIVE PROCEDURES ACT, AND REQUIRE A PERSON WHO HAS UNDERTAKEN UNLAWFUL CONDUCT TO REPAY COSTS OF ENFORCEMENT OF THE CHAPTER; BY ADDING SECTION 37-11-125 SO AS TO PROVIDE THAT THE ATTORNEY GENERAL MAY FILE AN ACTION IN THE ADMINISTRATIVE LAW COURT OR CIVIL COURT TO ENFORCE PROVISIONS OF THIS CHAPTER; TO AMEND SECTION 37-11-135, RELATING TO EXEMPTIONS FROM DISCIPLINARY PROCEDURES, SO AS TO PROVIDE THAT EXEMPT COMMUNITIES MUST OBTAIN A LETTER OF NONAPPLICABILITY; BY ADDING SECTION 37-11-137 SO AS TO PROVIDE THAT FUNDS COLLECTED BY THE DEPARTMENT MUST BE USED TO IMPLEMENT THE PROVISIONS OF THIS CHAPTER; AND TO AMEND SECTION 37-11-140, RELATING TO THE EFFECTIVE DATE OF THE CHAPTER, SO AS TO DELETE OBSOLETE PROVISIONS.

Be it enacted by the General Assembly of the State of South Carolina:

Disciplinary actions

SECTION 1. Section 37-11-100 of the 1976 Code, as last amended by Act 128 of 2005, is further amended to read:

“Section 37-11-100. (A) For the purposes of this section, ‘conviction’ includes a plea of guilty or nolo contendere or a finding of guilt.

(B) The department may take disciplinary action against a licensee or an operator for violation of a provision of this chapter or a regulation promulgated pursuant to this chapter.

(C) Upon finding that a licensee, operator, or person who manages the community on a day-to-day basis has violated one or more provisions of this section, the department may:

- (1) deny an application for a license;
- (2) revoke, restrict, suspend, or refuse to renew a license;
- (3) impose an administrative penalty in an amount not less than one thousand dollars for each violation, but not more than ten thousand dollars;
- (4) issue a reprimand;
- (5) issue a cease and desist order; or
- (6) place the licensee, operator, or person who manages the community on a day-to-day basis on probation for a period and subject to conditions and restrictions that the department specifies.

(D) A disciplinary action, denial of an application for a new or renewal license, license revocation, or license suspension must occur subject to the Administrative Procedures Act, with notice to, and an opportunity for a hearing by, the affected applicant, licensee, or operator. A contested hearing pursuant to this section must be held before the Administrative Law Court.

(E) A licensee, operator, or person who manages the community on a day-to-day basis who is found to be engaged in unlawful conduct may be assessed the reasonable costs necessary to the investigation, disciplinary proceeding, court proceeding, or other action to enforce the provisions of this chapter.”

Enforcement actions

SECTION 2. Chapter 11, Title 37 of the 1976 Code is amended by adding:

“Section 37-11-125. The department or the Attorney General may file an action in the Administrative Law Court or circuit court to enforce the provisions of this chapter.”

Exemption requirement

SECTION 3. Section 37-11-135 of the 1976 Code is amended to read:

“Section 37-11-135. A continuing care retirement community which does not require payment of an entrance fee is exempt from the requirements of this chapter. In order to qualify for this exemption, a facility must obtain a letter of nonapplicability from the department.”

Funds retention and use

SECTION 4. Chapter 11, Title 37 of the 1976 Code is amended by adding:

“Section 37-11-137. All funds collected by the department pursuant to this chapter must be retained and used to implement the provisions of this chapter.”

Section applicability

SECTION 5. Section 37-11-140 of the 1976 Code is amended to read:

“Section 37-11-140. (A) The provisions of Section 37-11-35 do not apply to a continuing care contract entered into before the effective date of this chapter.

(B) The provisions of subsection (A) do not limit the department’s authority to deny, suspend, or revoke a license or assess a monetary penalty if it finds fraud or gross financial mismanagement.”

Time effective

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 22nd day of May, 2008.

Approved the 27th day of May, 2008.